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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,746	03/02/2001	Dominique Paul Gerard Claessens	B0 41853	5010

466 7590 10/20/2004

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EXAMINER

USTARIS, JOSEPH G

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 10/20/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,746

Applicant(s)

CLAESSENS, DOMINIQUE PAUL
GERARD

Examiner

Joseph G Ustaris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03/19/2001.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to because the figure lacks a label, i.e. "Fig. 1".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "that finely the results of the last-mentioned step..." in line 15. The phrase causes confusion and it is unclear what the phrase is claiming in step (e) of claim 1.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Claessens (WO 97/38624).

Regarding claim 1, Claessens discloses a method for measuring and processing data in reaction to stimuli. The data is obtained by "the confrontation of respondents with visual stimuli" (See Fig. 2 and 3, presentation unit; page 3 lines 9-18), i.e. advertisements. The data "represents the time during which the attention of a respondent was directed to a specific stimulus" (See page 19 lines 1-17), i.e. the time

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the respondents are looking at an advertisement. The advertisements or "stimuli" are "subdivided in at least two distinguished attention areas" (See page 18 lines 15-16 and 34-38), i.e. the three advertisement elements of an advertisement. The data also represents "the time during which the attention of a respondent was directed to a specific attention area of a specific stimulus" (See page 19 lines 1-17), i.e. the time the respondent spends looking at each of the advertisement elements of an advertisement. The system "accumulates data received from a number of respondents and related to one specific stimulus" (See page 10 lines 6-21) and are "subdivided into sets of data each related to one of said attention areas of said one stimulus" (See page 10 lines 15-21 and page 18 lines 15-16), i.e. the processed data represents data per stimulus and per stimulus item or advertisement elements of an advertisement. Based on the data "it is determined how many respondents have paid attention to a specific one of said attention areas or to two of more of said specific areas" (See page 19 lines 1-17). The results from above are then "added in a predefined manner to obtain a total score for the respective stimulus" (See page 19 lines 18-28).

Regarding claim 2, the advertisement or "stimulus" has "three distinguished attention areas" (See page 10 lines 30-38; page 18 lines 15-16 and 35-38), i.e. brand, visual or "image information", and text or "textual information".

Regarding claim 3, Claessens discloses that based on the data it is determined "how many respondents have paid attention to the brand name or logo and to the image information and to the textual information" (See page 19 lines 1-17). Claessens also discloses that various measurements can be made to create various data, i.e. record

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the number of respondents that fixated one, two, or three of the advertisements elements or "how many respondents have paid attention only to the brand name or logo" and "how many respondents have paid attention to the brand name or logo and to the image information" (See page 18 lines 15-16 and 35-38). Claessens also discloses that various measurement reports can be created from the data (See page 11 lines 14-23).

Regarding claim 5, the results are "expressed in percentages" (See page 19 lines 2-3, 11-12, 21-22).

Regarding claim 6, the data represents the amount of respondents who spend between 60-1000 ms fixated on the advertisement elements, where inherently any "time period the attention was paid to one of the attention areas is less than a predetermined time value the respective data is removed from further processing", in order to maintain accurate measurements (See page 19 lines 1-17).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Claessens (WO 97/38624) in view of Carles (US005661516A).

Claim 4 contains the limitations of claim 1 and is analyzed as previously discussed with respect to those claims. However, Claessens does not disclose that each result is "multiplied by a predetermined weighting factor".

Carles discloses a method of processing data in order to target advertisements/commercials. Carles discloses that various variables or data is used in determining the score of the advertisement. Each variable is "multiplied by a predetermined weighting factor" and then added to obtain the total score (See column 5 lines 19-65). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the process disclosed by Claessens to "multiply each result by a predetermined weighting factor before being added into the total score", as taught by Carles, in order to provide a means of prioritizing the various data thereby providing customized statistics for the user.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please take note of Scarampi (WO 90/02453) and Nickerson (US005226177A) for their similar method of processing data related to viewers' response to visual stimuli.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G Ustaris whose telephone number is 703-305-0377. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JGU

September 29, 2004



ANDREW FAILE
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